

004

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

PHILLIP NELSON BURNS, MIRJANA
PAVKOVICH, Administrator of the Estate of
Rade Pavkovich, Deceased, and WARREN
ELMER HALFPAP,

Plaintiff(s),

-against-

Index No.: 114728/04

GRUPO MEXICO S. A. de C.V., a Mexican
Corporation, SOUTHERN PERU HOLDINGS
CORPORATION, a Delaware Corporation, SPHC
II, Incorporated, a Delaware Corporation, GRUPO
MINERO MEXICO INTERNACIONAL, S. A.
de C.V., a Mexican Corporation, MEXICANA
de COBRE, S.A. de C.V. a Mexican Corporation,
CONTROLADORA MINERA MEXICO, S.A. de
C.V., a Mexican Corporation, JP MORGAN
CHASE & COMPANY f/k/a CHASE
MANHATTAN BANK & TRUST COMPANY,
a Delaware Corporation, AMERICAS MINING
CORPORATION, a Delaware Corporation,
ERNST & YOUNG LLP, ERNST & YOUNG
CORPORATE FINANCE, LLC, GERMAN
LARREA MOTA-VELASCO, Officer and
Director of ASARCO, Inc., OSCAR GONZALEZ
ROCHA Officer and Director of ASARCO, Inc.,
CREDIT SUISSE FIRST BOSTON, INC.,
CREDIT SUISSE FIRST BOSTON, LLC and
CREDIT SUISSE FIRST BOSTON (USA),
INC.

Defendant(s)

ORDER

306-b CPLR

FILED

JUL 12 2005

NEW YORK
COUNTY CLERK'S OFFICE

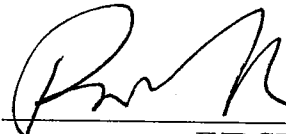
ORDER

The Plaintiffs having duly made application to this Court for an Order pursuant to CPLR
§306-b and §2004 for an additional extension of time to serve the unauthorized foreign defendants
and certain of their officers, directors, and/or employees thereof located in Mexico pursuant to the

IT IS FURTHER ORDERED that plaintiffs shall have for an extension of time of 6 days from the date of entry of this Order in order to effect service of process pursuant to the Hague Convention on the following unauthorized foreign defendants:

Grupo Mexico S. A. de C.V.,
Grupo Minero Mexico Internacional, S.A. de C.V.,
Mexicana de Cobre, S.A. de C.V.,
Controladora Minera Mexico, S.A. de C.V.,
German Larrea Mota-Velasco, and
Oscar Gonzalez Rocha.

Dated: 7/12/05


JUDGE

HON. BERNARD J. FRIED

264814

STATE OF NEW YORK
COUNTY OF NEW YORK
CLERK OF THE SUPREME COURT
IN SENATE
JULY 12 2005

FEB. 27. 2007

THAT I HAVE COMPARED THIS
COPY WITH THE ORIGINAL
FILED IN OFFICE ON
7/12/05
BY CLERK
AND HAVE FOUND IT
TO BE A TRUE AND CORRECT
COPY OF THE ORIGINAL
FILED IN OFFICE ON
JULY 12 2005
BY CLERK
AND HAVE AFFIRMED BY
MY SEAL

FILED

2

FILED
JUL 12 2005
NEW YORK
COUNTY CLERK'S OFFICE

Fogel

PART

60 m

Justice

Philip Nelson Burns

INDEX NO.

114728 / 04

MOTION DATE

MOTION SEQ. NO.

004

MOTION CAL. NO.

Granda Mexico

- v -

The following papers, numbered 1 to _____ were read on this motion to/for

PAPERS NUMBERED

Notice of Motion/ Order to Show Cause — Affidavits — Exhibits ...

Answering Affidavits – Exhibits

Replying Affidavits

Cross-Motion: ☐ Yes ☐ No

Upon the foregoing papers, it is ordered that this motion

264822

Is Granted

FEB. 27 2007

THAT I HAVE COMPARED THIS
COPY WITH THE ORIGINAL
FILED IN MY OFFICE ON

7	12	05
---	----	----

FILED

JUL 12 2005

NEW YORK
COUNTY CLERK'S OFFICE

Dated:

Check one:

☐ **FINAL DISPOSITION**

☐ **NON-FINAL DISPOSITION**

MOTION/CASE IS RESPECTFULLY REFERRED TO JUSTICE _____

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

PHILLIP NELSON BURNS, MIRJANA
PAVKOVICH, Administrator of the Estate of
Rade Pavkovich, Deceased, and WARREN
ELMER HALFPAP,

Plaintiff(s),

-against-

GRUPO MEXICO S. A. de C.V., a Mexican
Corporation, SOUTHERN PERU HOLDINGS
CORPORATION, a Delaware Corporation, SPHC
II, Incorporated, a Delaware Corporation, GRUPO
MINERO MEXICO INTERNACIONAL, S. A.
de C.V., a Mexican Corporation, MEXICANA
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CONTROLADORA MINERA MEXICO, S.A. de
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ROCHA Officer and Director of ASARCO, Inc.,
CREDIT SUISSE FIRST BOSTON, INC.,
CREDIT SUISSE FIRST BOSTON, LLC and
CREDIT SUISSE FIRST BOSTON (USA),
INC.

Defendant(s)

EX PARTE MOTION OFFICE
APPROVED
FOR THE PAYMENT
OF MOTION FEE
ONLY

Index No.: 114728/04

EX PARTE ORDER

ORDER

IT IS HEREBY ORDERED, that plaintiffs' *Ex Parte* Application, pursuant to CPLR §
311(b), for Additional Extension of Time for Service of Process on Unauthorized Foreign
Corporations Pursuant to the Hague Convention, is hereby GRANTED.

At the Ex-Parte Motion Office of the
Supreme Court of the State of New
York, held in and for the County of
New York, at the County Court
House, on the _____ day of _____
19____.

Present: _____

Hon. _____

Justice

015768

INDEX NUMBER 114728 YEAR 2004

45 NOTED

TOTAL

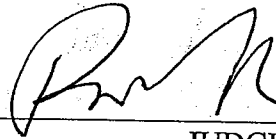
CONS. PARTIES DATE TIME
2004-06-20 09:45 AM 15 14:25 PM 04

IT IS FURTHER ORDERED that plaintiffs shall have for an extension of time of 1
days from the date of entry of this Order in order to effect service of process pursuant to the Hague

Convention on the following unauthorized foreign defendants:

Grupo Mexico S. A. de C.V.,
Grupo Minero Mexico Internacional, S.A. de C.V.,
Mexicana de Cobre, S.A. de C.V.,
Controladora Minera Mexico, S.A. de C.V.,
German Larrea Mota-Velasco, and
Oscar Gonzalez Rocha.

Dated: 7/12/05



JUDGE

HON. BERNARD J. FRIED

004
SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

PHILLIP NELSON BURNS, MIRJANA
PAVKOVICH, Administrator of the Estate of
Rade Pavkovich, Deceased, and WARREN
ELMER HALFPAP,

Plaintiff(s),

-against-

Index No.: 114728/04

GRUPO MEXICO S. A. de C.V., a Mexican
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CORPORATION, a Delaware Corporation, SPHC
II, Incorporated, a Delaware Corporation, GRUPO
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de C.V., a Mexican Corporation, MEXICANA
de COBRE, S.A. de C.V. a Mexican Corporation,
CONTROLADORA MINERA MEXICO, S.A. de
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CREDIT SUISSE FIRST BOSTON, LLC and
CREDIT SUISSE FIRST BOSTON (USA),
INC.

Defendant(s)

ORDER

306-b CPLR

ORDER

The Plaintiffs having duly made application to this Court for an Order pursuant to CPLR
§306-b and §2004 for an additional extension of time to serve the unauthorized foreign defendants
and certain of their officers, directors, and/or employees thereof located in Mexico pursuant to the

Hague Convention, and said application being unopposed by the defendants served to date in the United States, and plaintiffs' said application having been duly submitted, and

Upon reading and filing the affirmation (affidavit) of Gary Klein, Esq. dated June 17, 2005, and all exhibits annexed thereto in support of plaintiffs' application for an extension of time to serve the unauthorized foreign corporations and certain officers, directors and/or employees thereof located in Mexico pursuant to the Hague Convention, and the matter having been duly submitted to the Court for a decision, and after due deliberation having been had thereon,

Now, on the unopposed application of the plaintiffs for an extension of time to serve the unauthorized foreign corporations and certain of their officers, directors, and/or employees in Mexico pursuant to the Hague Convention, it is hereby

ORDERED, that plaintiffs' time within which to serve the following defendants in Mexico pursuant to the Hague Convention is hereby extended 120 days from the date of *June 22, 2005*

Grupo Mexico S. A. de C.V.,
Grupo Minero Mexico Internacional, S.A. de C.V.,
Mexicana de Cobre, S.A. de C.V.,
Controladora Minera Mexico, S.A. de C.V.,
German Larrea Mota-Velasco, and
Oscar Gonzalez Rocha.

said time to expire on the 20th day of October, 2005.


JUDGE

☐ DO NOT POST

HON. BERNARD J. FRIED

7/12/05

COMMERCIAL DIVISION SUPPORT OFFICE
SUPREME COURT OF THE STATE OF NEW YORK
60 CENTRE STREET ROOM 148
NEW YORK, NEW YORK 10007-1474

Motion Sequence Number 004

TO JUSTICE: Fried

ROOM 300 I.A.S. PART 60

IF YOUR HONOR WISHES TO GRANT THIS EX-PARTE ORDER FOR:

an extension of time to serve the

foreign defendants

PLEASE SIGN THE ORDER.

Please return the order to room 148 for processing.

Order is approved as to form.

FILED
JUL 12 2005
NEW YORK
COUNTY CLERK'S OFFICE

SUPREME COURT OF THE STATE OF NEW YORK — NEW YORK COUNTY

PRESENT: Fried
Justice

PART 60m

Philip Nelson Boon

INDEX NO. 114-728/04

MOTION DATE _____

MOTION SEQ. NO. 004

MOTION CAL. NO. _____

- v -

Grupo Mexico

The following papers, numbered 1 to _____ were read on this motion to/for _____

Notice of Motion/ Order to Show Cause — Affidavits — Exhibits ...

Answering Affidavits — Exhibits _____

Replying Affidavits _____

PAPERS NUMBERED

Cross-Motion: ☐ Yes ☐ No

Upon the foregoing papers, it is ordered that this motion

Is Granted
So ORDERED

FILED

JUL 12 2005

NEW YORK
COUNTY CLERK'S OFFICE

Dated: 7/12/05

HON. BERNARD J. FRIED

Check one: ☐ FINAL DISPOSITION

☐ NON-FINAL DISPOSITION

MOTION/CASE IS RESPECTFULLY REFERRED TO
JUSTICE

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

PHILLIP NELSON BURNS, MIRJANA
PAVKOVICH, Administrator of the Estate of
Rade Pavkovich, Deceased, and WARREN
ELMER HALFPAP,

Plaintiff(s),

-against-

Index No.: 114728/04

GRUPO MEXICO S. A. de C.V., a Mexican
Corporation, SOUTHERN PERU HOLDINGS
CORPORATION, a Delaware Corporation, SPHC
II, Incorporated, a Delaware Corporation, GRUPO
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CREDIT SUISSE FIRST BOSTON, INC.,
CREDIT SUISSE FIRST BOSTON, LLC and
CREDIT SUISSE FIRST BOSTON (USA),
INC.

Defendant(s)

NOTICE OF MOTION

FILED

JUL 12 2005

**NEW YORK
COUNTY CLERK'S OFFICE**

**NOTICE OF UNOPPOSED MOTION FOR ADDITIONAL EXTENSION OF TIME FOR
SERVICE OF PROCESS ON UNAUTHORIZED FOREIGN CORPORATIONS
PURSUANT TO THE HAGUE CONVENTION**

PLEASE TAKE NOTICE that, on behalf of plaintiffs, and upon the annexed affirmation
of Gary Klein, Esq., dated June 17, 2005, plaintiffs will move in the Supreme Court of the

State of New York, County of New York, at the courthouse located at 60 Centre Street, Room 130, New York, New York on July 8, 2005 at 9:30 a.m. or as soon thereafter as counsel can be heard, for an extension of time of an additional 180 days from the date of the Order herein, without prejudice to seeking further extension, or to whichever date the Court may direct, to effect service pursuant to the Hague Convention on the following unauthorized foreign defendants, and certain of their officers, directors, and/or employees located in Mexico:

Grupo Mexico S. A. de C.V.,
Grupo Minero Mexico Internacional, S.A. de C.V.,
Mexicana de Cobre, S.A. de C.V.,
Controladora Minera Mexico, S.A. de C.V.,
German Larrea Mota-Velasco, and
Oscar Gonzalez Rocha.

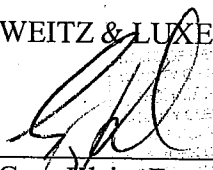
This motion is unopposed by the defendants in the United States who have been served to date.

Dated: New York, New York
June 17, 2005

Respectfully submitted,

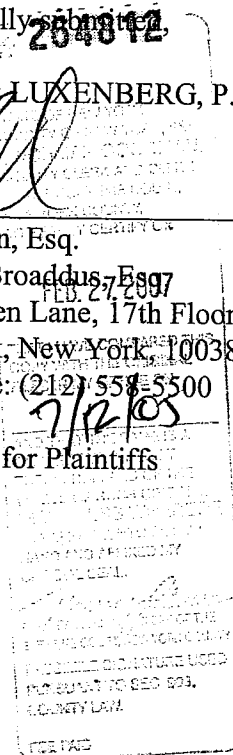
WEITZ & LUXENBERG, P.C.

By:


Gary Klein, Esq.
John M. Broadus, Esq.
180 Maiden Lane, 17th Floor
New York, New York, 10038
Telephone: (212) 558-5500

Attorneys for Plaintiffs

FILED
7/12/05
COUNTY CLERK
NEW YORK COUNTY



SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

PHILLIP NELSON BURNS, MIRJANA
PAVKOVICH, Administrator of the Estate of
Rade Pavkovich, Deceased, and WARREN
ELMER HALFPAP,

Plaintiff(s),

-against-

Index No.: 114728/04

GRUPO MEXICO S. A. de C.V., a Mexican Corporation, SOUTHERN PERU HOLDING CORPORATION, a Delaware Corporation, SOUTHERNPERU HOLDING CORPORATION II, a Delaware Corporation, GRUPO MINERO MEXICO INTERNACIONAL, S. A. DE C.V., a Mexican Corporation, COMPANIA MEXICANA de COBRE, a Mexican Corporation, JP MORGAN CHASE & COMPANY f/k/a CHASE MANHATTAN BANK & TRUST COMPANY, a Delaware Corporation AMERICAS MINING CORPORATION, a Delaware Corporation, ERNST & YOUNG LLP, ERNST & YOUNG CORPORATE FINANCE, LLC, GERMAN LARREA MOTA-VAELASCO, Officer and Director of ASARCO, Inc., OSCAR GONZALES ROCHA Officer and Director of ASARCO, Inc., DANIEL TELLECHEA SALIDO Officer and Director of ASARCO, Inc., CREDIT SUISSE FIRST BOSTON, INC., CREDIT SUISSE FIRST BOSTON, LLC and CREDIT SUISSE FIRST BOSTON (USA), INC.

Defendant(s)

**AFFIRMATION IN SUPPORT OF PLAINTIFFS' UNOPPOSED MOTION FOR
ADDITIONAL EXTENSION OF TIME FOR SERVICE OF PROCESS ON
UNAUTHORIZED FOREIGN CORPORATIONS
PURSUANT TO THE HAGUE CONVENTION**

GARY KLEIN, an attorney duly admitted to practice law before the Courts of the State of New York, affirms the following to be true under penalty of perjury:

1. I am an attorney with the firm of WEITZ & LUXENBERG, P.C. attorneys for the plaintiffs Phillip Nelson Burns, Mirjana Pavkovich, and Warren Elmer Halfpap, in this action. I submit this affirmation in support of Plaintiffs' Unopposed Motion for Additional Extension of Time for Service of Process on Unauthorized Foreign Corporations Pursuant to the Hague Convention.

2. On February 5, 2005, plaintiffs filed an Ex Parte Application for Extension of Time to Effect Service on An Unauthorized Foreign Corporation pursuant to CPLR § 311(b). At that time, plaintiffs requested an additional 180 days to complete the service in Mexico.

3. Attached hereto as Exhibit A is a true and correct copy of this Court's Order dated and signed February 16, 2005 in which this Court granted plaintiffs an additional 120 days from the date of the entry of the Order to effect service of process on the defendants located in Mexico. The Order was filed in the Clerk's office on February 22, 2005.

4. On June 15, 2005, plaintiffs filed their "Ex Parte Application for Additional Extension of Time for Service of Process on Unauthorized Foreign Corporations Pursuant to the Hague Convention." Plaintiffs thereafter received a memorandum from the Clerk of the Ex Parte Motion Part dated June 15, 2005 with accompanying draft order requiring plaintiffs to redraft and resubmit the motion pursuant to CPLR §§ 306-b and 2004. Attached hereto as Exhibit B is a true and correct copy of the Clerk's June 15, 2005 memorandum with accompanying draft order.

5. Attached hereto as Exhibit C is a true and correct copy of correspondence dated June 7, 2005 from APS International stating that service of process upon a corporation located in

EXHIBIT A

SUPREME COURT OF THE STATE OF NEW YORK — NEW YORK COUNTY

PRESENT: Fred **HON. BERNARD J. FRIED**
Justice

PART 60m

Phillip Nelson Burns

INDEX NO.

114728/04

MOTION DATE

MOTION SEQ. NO.

002

MOTION CAL. NO.

- v -

Grupo Mexico S.A. et al

The following papers, numbered 1 to _____ were read on this motion to/for _____

Notice of Motion/ Order to Show Cause — Affidavits — Exhibits ...

Answering Affidavits — Exhibits _____

Replying Affidavits _____

PAPERS NUMBERED

Cross-Motion: ☐ Yes ☐ No

Upon the foregoing papers, it is ordered that this motion

This motion is GRANTED as follows: time for the service of process is extended by 120 days from the date of the entry of this Order

SO ORDERED

FILED
7/12/05
COUNTY CLERK
NEW YORK COUNTY
AS AN EXHIBIT

FILED

FEB 22 2005

264810

FEB. 27. 2007

THAT I HAVE COMPARED THIS
COPY WITH THE ORIGINAL
FILED IN MY OFFICE ON
7/12/05
OFFICE
I HAVE FOUND IT TO BE A TRUE
AND CORRECT COPY OF THE
ORIGINAL AND I HAVE
HEREBY CERTIFIED TO
THE COURT AND TO YOU
BY SIGNING THIS
STATEMENT.
JULY 12 2005
CLERK OF THE COURT

AS AN
EXHIBIT

Dated:

2/16/05

HON. BERNARD J. FRIED

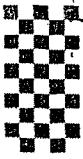
J.S.C.

Check one: ☐ FINAL DISPOSITION

☒ NON-FINAL DISPOSITION

MOTION/CASE IS RESPECTFULLY REFERRED TO
JUSTICE

EXHIBIT B



JUN. 16. 2005 3:09PM

NO. 2221 P. 1/3

June 15, '05

**NYS SUPREME COURT
EX PARTE MOTION PART
ROOM 315**

*311(b) is solely for
service by alternate means
as permitted by the court;
extensions of time to com-
plete service is per 306-b,
§ 20.04, et. (see statutes
cited in sample.*

264809

*Rescraft order and
affirmation to reflect proper
statutes for this relief.*

*(The motion fee paid 7/12/05
still valid for this relief.)
KINDLY RETURN THIS MEMORANDUM
WHEN PAPERS ARE RESUBMITTED
just attach top page with
proof of payment as an exhibit.*

FILED
7/12/05
COUNTY CLERK
NEW YORK COUNTY
AS AN EXHIBIT

CLERK OF NEW YORK
COUNTY OF NEW YORK
THOMAS BOGDANSKI
COUNTY CLERK AND CLERK
OF THE SUPREME COURT
COUNTY OF NEW YORK
I HEREBY CERTIFY ON

FEB. 27. 2007

I HAVE COMPARED THIS
WITH THE ORIGINAL
FILED MAY 10 2007

CLERK OF NEW YORK
COUNTY OF NEW YORK
THOMAS BOGDANSKI
COUNTY CLERK AND CLERK
OF THE SUPREME COURT
COUNTY OF NEW YORK
I HEREBY CERTIFY ON

FREE PAID

AS AN
EXHIBIT

JUN. 16. 2005 3:09PM

NO. 2221 P. 2/3

At an Ex-Parte Motion Part of the Supreme Court
of the State of New York, held in and for the
County of New York at the Courthouse, 60 Centre
Street, Borough of Manhattan, City and State of
New York, on the ____ day of _____ 20__

PRESENT Hon. _____

Justice

X

Plaintiff(s)

against

Defendant(s)

X

Index No. _____

ORDER

The Plaintiff having duly made application to this Court for an Order pursuant to
CPLR §306-b, §2004, §3012(d), and /or §2005, for an extension of time to serve the
defendant with the Summons and Complaint, and plaintiff's said application having been duly
submitted to the office of the *Ex Parte Clerk*, and

Upon reading and filing the affirmation (affidavit) of _____
dated _____
_____ and all the exhibits annexed thereto in support of plaintiff's application for
an extension of time to serve the defendant with the Summons and Complaint in this action and
the matter having been duly submitted to the Court for a decision, and after due deliberation
having been had thereon,

JUN. 16. 2005 3:09PM

NO. 2221 P. 3/3

Now, on the motion of _____ plaintiff, it is

ORDERED, that plaintiff's time within which to serve defendant with the Summons and Complaint in this action, and file an affidavit of service, is hereby extended 120 days from the date of this Order, said time to expire on _____.

ENTER:

JSC